

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

04 10797 GAO

FILED C.A. NO.  
CLERK'S OFFICE

APR 21 P 2:43

MARK ULIANO,  
Plaintiff

v.

MARIE H. BISSEL, and  
KENNETH J. TILDEN,  
Defendants

DISTRICT COURT  
DISTRICT OF MASS.

RECEIPT # 35435  
COMPLAINT AMOUNT \$ 150  
SUMMONS ISSUED YES  
LOCAL RULE 4.1  
WAIVER FORM  
MCF ISSUED  
BY DPTY. CLK. FOM  
DATE 4/22/04

MAGISTRATE JUDGE *Dein*

**INTRODUCTION**

1. The Plaintiff, Mark Uliano, brings a negligence claim against the Defendants for severe and permanent personal injuries he suffered when the vehicle he was driving was struck by the Defendant Kenneth Tilden's vehicle. The Tilden vehicle careened into the Plaintiff's vehicle after first colliding with the Defendant Marie H. Bissel's vehicle.

**PARTIES**

2. The Plaintiff, Mark Uliano, resides at 4235 Rue Lanouette 1T, Verola, Quebec, Canada.
3. The Defendant, Kenneth Tilden, resides at 23 F Westgate Lane, Boynton Beach, Florida.
4. The Defendant, Marie H. Bissel, resides at 316 Sherman Street, Canton, Massachusetts.

**JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (a)(1) because the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states and a citizen of a foreign country. All defendants are diverse from the Plaintiff and the amount in controversy exceeds \$75,000.00 as the Plaintiff, Mark

Uliano suffered cervical and lumbar disc herniations and a 14% impairment of the whole person based on the AMA Guidelines, has incurred extensive medical bills and has been totally disabled from work for almost two years.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391. The accident occurred in Canton, Massachusetts.

### **FACTS**

7. On September 10, 2002 at approximately 5:00 p.m. the Plaintiff, Mark Uliano, was operating his 1987 Jeep, Quebec Registration No., 355OWV, in a northerly direction on Washington Street, Canton, Massachusetts.

8. As the Plaintiff approached the intersection of Randolph Street and Wentworth Road, he slowed his car to a stop to allow the Defendant, Kenneth Tilden, who was operating a 1999 Toyota, Florida Registration FL466B, to enter Randolph Street from Wentworth Road.

9. As Tilden proceeded out onto Wentworth Road, the Defendant, Marie Bissell, who was operating her 1992 Ford, Massachusetts Registration No. 433MXD, in a southerly direction on Randolph Street towards Tilden's vehicle, attempted to go around Tilden's vehicle rather than allowing him to proceed which resulted in a collision.

10. The force of the collision between the two defendants' vehicles forced the Tilden vehicle to strike the Plaintiff's vehicle head on.

11. As a result of the collision, the Plaintiff sustained serious bodily injuries including, but not limited to, herniated discs at C4-5, C6-7, L5-S1, a bulging disc at L5-S1, L4-5 and L3-4, lumbosacral sprain/strain, trapezius strain, L5-S1 spondylosis, all of which have resulted in a 14% impairment of the whole person based on the AMA Guidelines

12. The Plaintiff remains permanently disabled and is unable to work in his trade as a painter. The Plaintiff has incurred lost income from the date of the accident to present.

**COUNT I**  
**(Negligence as to Kenneth Tilden)**

13. The Plaintiff re-avers and re-alleges the allegations set forth in paragraphs 1 through 12 above and incorporates them herein by reference.

14. On September 10, 2002, the Plaintiff was lawfully operating his Jeep on Washington Street, Canton, Massachusetts.

15. At the time of the accident, Kenneth Tilden had a duty to operate his motor vehicle in a reasonable and prudent manner given the conditions of the roadway. Tilden breached that duty when he turned onto Washington Street without first ascertaining that it was safe to do so, and failing to yield to oncoming traffic, thereby causing the first collision with Bissel's vehicle and the second collision with the Plaintiff's vehicle.

16. At all times relevant hereto, the Plaintiff was operating his vehicle in a reasonable and prudent manner.

17. As a direct and proximate result of Tilden's negligence, the Plaintiff suffered severe and permanent physical injuries and pain and suffering, and has incurred significant medical expenses, lost wages and lost earning capacity.

18. WHEREFORE, the Plaintiff requests that the court enter judgment in his favor, award him damages, interest thereon, attorney's fees and costs as provided by law and whatever additional relief the Court deems just.

**COUNT II**  
**(Negligence as to Marie H. Bissel)**

19. The Plaintiff re-avers and re-alleges the allegations set forth in paragraphs 1 through 18 above and incorporates them herein by reference.

20. On September 10, 2002, the Plaintiff was lawfully operating his Jeep on Washington Street, Canton, Massachusetts.

21. At the time of the accident, Marie H. Bissel had a duty to operate her motor vehicle in a reasonable and prudent manner given the conditions of the roadway. Bissel breached that duty when she

failed to keep in her marked lane, operated her vehicle at a speed greater than reasonable and necessary, thereby causing the first collision with the Tilden vehicle and the second collision with the Plaintiff's vehicle.

22. At all times relevant hereto, the Plaintiff was operating his vehicle in a reasonable and prudent manner.

23. As a direct and proximate result of Bissel's negligence, the Plaintiff suffered severe and permanent physical injuries and pain and suffering, and has incurred significant medical expenses, lost wages and lost earning capacity.

24. WHEREFORE, the Plaintiff requests that the court enter judgment in his favor, award him damages, interest thereon, attorney's fees and costs as provided by law and whatever additional relief the Court deems just.

**THE PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL CLAIMS CONTAINED HEREIN**

Respectfully submitted,  
On behalf of the Plaintiff,



David M. Cohen, BBO # 637003

[david@bierlaw.com](mailto:david@bierlaw.com)

Stephen J. Delamere, BBO # 561249

[steve@bierlaw.com](mailto:steve@bierlaw.com)

BIERHANS, DELAMERE & COHEN, LLLC

294 Pleasant Street, Suite 204

Stoughton, Massachusetts 02072

(781) 297-0005

Facsimile (781) 297-7427

Dated: April 5, 2004